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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fourth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 August 1992, at 3 p.m.

Chairman: Mr. ALFONSO MARTÍNEZ

later: Mrs. KSENTINI

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The meeting was called to order at 3.10 p.m.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (continued) (E/CN.4/Sub.2/1992/11)

(b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA (continued) (E/CN.4/Sub.2/1992/12 and Add.1)

1. Ms. MURCHIE (Indigenous World Association), speaking on agenda item 5 (a), said that she wished to draw the Sub-Commission's attention to the plight of the indigenous peoples of Bougainville, whose human rights were being violated by the Papua New Guinea Defence Force.

2. However, her organization wished to refer, first of all, to the statement made by the International Work Group for Indigenous Affairs under agenda item 17, in which it had reported that Bishop John Zale had again been prevented from attending the Sub-Commission's session, thereby violating the right of an indigenous person to leave his homeland and return to it.

3. The indigenous peoples of Bougainville had been the target of torture, mistreatment and extrajudicial executions under the imposed governance of Papua New Guinea. Bougainvillians had a heritage distinct from Papua New Guineans. Their islands were separated from each other, and their ethnicity and cultures were different. Rather, they shared a common heritage with the Solomon Islanders.

4. Economically viable as a State, Bougainville sought a referendum on self-determination and since 1918 had continuously called for autonomy.

5. Yet Bougainville's political status remained unresolved. A war had been raging, and the Papua New Guinea Defence Force had been committing torture and destroying villages. Territories had been occupied and families separated. Suspected supporters of a secessionist group, the Bougainville Revolutionary Army, had reportedly been executed. Amnesty International had been denied entry into Papua New Guinea. The commander of the Papua New Guinea Defence Force had been dismissed because he had confirmed the Amnesty International report on the detention, mistreatment and torture of indigenous Bougainvillians, as well as the murder of a parish priest and five of his parishioners on 14 February 1990. In 1992 there had been reports of an incident at the village of Hetan on the occupied island of Buka, in which 11 young boys had allegedly been tortured and killed by the Defence Force, some having been burnt to death. Political detainees and suspected members of the Bougainville Revolutionary Army were routinely mistreated.

6. The Indigenous World Association endorsed the resolution of the Pacific Council of Churches of September 1991 calling upon the Government of Papua New Guinea to lift the blockade of essential supplies, to allow access to humanitarian organizations, to implement the multinational security team as agreed at the Honiara peace talks between Bougainville and Papua New Guinea in

January 1991, to withdraw the Papua New Guinea Defence Force, to recognize the right to self-determination of the people of Bougainville and to allow a referendum to be held on the future political status of that people.

7. The Sub-Commission should ensure that the situation in Bougainville was given close scrutiny and that special rapporteurs, at least one of whom should be an indigenous expert, were sent to Bougainville to investigate the human rights situation there.

8. Finally, the Indigenous World Association urged the Sub-Commission to ensure that the issue of indigenous peoples was included in the agenda of the 1993 World Conference on Human Rights.

9. Mr. LITTMAN (International Fellowship of Reconciliation), speaking on agenda item 5 (a), said that Sub-Commission resolution 1991/2 had voiced deep concern about current trends of racism, discrimination, intolerance and xenophobia. Not surprisingly, however, a long-standing taboo, initiated by the former Soviet Union, had resulted in the omission from that list of the word "anti-Semitism", one of the oldest and most virulent forms of racism. The United Nations itself had officially endorsed anti-Semitism in the shameful General Assembly resolution 3379 (XXX) equating zionism with racism, adopted on 10 November 1975, the thirty-seventh anniversary of the Nazi Kristallnacht. That resolution had finally been rescinded by an overwhelming vote in the General Assembly in 1991, although not one Arab or Muslim delegation had joined the 111 States voting in favour of the resolution's annulment. General Assembly resolution 3379 (XXX) had been used in schools and universities, United Nations forums and elsewhere to propagate anti-Semitic hatred and intolerance, thinly disguised as anti-zionism. It had thus provided a justification for acts of international terrorism.

10. Anti-Semitism continued with particular vehemence in certain parts of the Middle East, where Israel was still denied the right to exist. Yet, there was currently a rare opportunity to achieve progress towards peace in the Middle East. The new Government of Prime Minister Rabin had declared its commitment to freezing settlements and to negotiations with the Palestinians. The reaction of some Palestinian and Arab leaders had been encouraging, as had been the appointment of two Arabs as deputy ministers in Israel's new Government. It was to be hoped that legislative measures would soon be initiated in Israel to bring about the much-needed separation of State and religion. The meeting between President Bush and Prime Minister Rabin would undoubtedly give greater momentum to the peace process.

11. For its part, the Sub-Commission should contribute by adopting a constructive line conducive to reconciliation in resolutions that reflected the spirit of the times. One must never give up the hope that a spiritual and political reconciliation would one day be achieved between Jews, Christians and Muslims.

12. Two and a half years had passed since he had first put forward the idea of a "United States of Abraham", based on Churchill's famous 1946 Zürich speech on a United States of Europe. His proposal had been reprinted in Jerusalem in the Palestinian weekly Al-Fajr, and in the Tribune de Genève.

Related ideas had been expressed in various statements by Arab and Palestinian spokesmen, including that of the eventual creation of a confederation comprising Israel, Jordan and the Palestinians. In attempting to adapt Churchill's concept to the Israel-Jordan-Palestinian predicament, he had hoped that it might serve as a model for the Middle East. The first concrete step could be a "partnership" between Israel, Jordan and the Palestinians within that all-inclusive geographical area designated as "Palestine" in the original 1922 League of Nations Mandate. As a symbolic gesture, political and religious leaders might meet in Jerusalem to set the stage for such a reconciliation.

13. Turning to the events in the former Yugoslavia, it was important to refrain from hasty analogies linking ethnic and territorial conflicts with the Nazi policies of genocide committed against the Jewish people in the Second World War.

14. Mr. COE (National Aboriginal and Islander Legal Services Secretariat), speaking on agenda item 5 (a), said that racism and racial discrimination were a fact of life and were accordingly institutionalized for Australia's indigenous peoples.

15. Since the completion two and a half years previously of the Royal Commission Report into Aboriginal Deaths in Custody, some 29 deaths had occurred at the hands of agents of the Government. One of the findings of that Report had been that the imprisonment of aboriginal people should only be used as a last resort; but imprisonment had, in fact, been on the rise since the Report had been made public. The Government of Western Australia had recently introduced the Juvenile Crime Act, which provided for mandatory detention or imprisonment for most youthful offenders, regardless of whether the court found such detention to be appropriate. That legislation threatened the impartiality and independence of the judicial system in the State of Western Australia and was a blatant violation of the Convention on the Rights of the Child, which Australia had recently signed and ratified.

16. The National Inquiry into Racist Violence in Australia had found that racist violence committed against aboriginal people was widespread and that the most frequent perpetrators of such violence were the very persons who were supposed to protect them, namely, the police. It also found: that racist violence, intimidation and harassment of aboriginal people and Torres Strait Islanders were social problems resulting from racism and were not the isolated acts of maladjusted individuals; that aboriginal and Torres Strait Islander people faced racism in almost every aspect of their daily lives, which explained the high level of racist violence committed against them; that racist attitudes and practices pervaded all public and private institutions; and that relations between aboriginal people and the police had reached a critical point due to the widespread involvement of police in acts of racist violence, intimidation and harassment.

17. In a recent incident in the Redfern section of Sydney, 170 police officers armed with questionable search warrants had raided 11 homes, breaking open doors and intimidating women and children at gunpoint. The Supreme Court of New South Wales had later found that all but one of the warrants had been illegally issued and that as a consequence the arrests had been unlawful,

but not one person had received compensation for being subjected to such racist violence and terror, and no police officer had been charged with committing a criminal offence.

18. Not one of the Royal Commission's recommendations with regard to reducing sentences and changing police policy had been implemented. Despite the assertion by the Minister for Aboriginal Affairs before the Working Group on Indigenous Peoples that changes were being made and numerous recommendations implemented, the members of the aboriginal community had not noted any improvement in the situation. Once again, Australia had misled the international community about the extent to which it was fulfilling its obligations under the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. The blatant and racist institutionalized acts which were a daily occurrence were manifested in the highest court of Australia, where one discredited theory of terra nullius was replaced by another equally racist Eurocentric and imperialistic notion of discovery of the lands and territories of Australia, in the family courts that disregarded any notion of aboriginality when considering the issue of custody of aboriginal children and in courts at the lowest level which imposed sentences on aboriginal people as a first option.

19. Mr. LACK (World Jewish Congress), speaking on agenda item 5 (a), urged the Sub-Commission to take the lead in promoting a system-wide reappraisal of the global phenomena of racism and racial discrimination, intolerance, incitement to hatred and violence for reasons of race, religion or ethnic or national origin, with a view to proposing a plan of action to counter their contemporary manifestations. At the forty-eighth session of the Commission on Human Rights, a group of 19 non-governmental organizations had presented a statement, which the World Jewish Congress supported, on contemporary intolerance and xenophobia, including incitement to violence and hatred against national, ethnic and religious minorities. One of the phenomena that had given rise to alarm had been the dramatic revival of anti-Semitism. As pointed out by the Secretary-General in his report (E/CN.4/Sub.2/1992/11), one of the contemporary forms of anti-Semitism was the thesis of the so-called revisionist school of historians, who asserted that the holocaust had never taken place.

20. The World Jewish Congress was encouraged by the penetrating analysis of the global nature of racism and racial discrimination in the report of the Secretary-General. The report covered the situation in Central, Eastern and Western Europe, North America and, to a lesser extent, Latin America, but did not adequately reflect the alarming examples of racism and racial discrimination in Africa, both north and south of the Sahara, including Somalia, Sudan and Zaire. His organization was equally concerned about large-scale human rights violations among rival groups in Afghanistan, where inter-factional religious extremism had once again flared up. Inter-ethnic conflict in the South-East Asian countries of Cambodia, Sri Lanka, East Timor and Myanmar continued unresolved.

21. In retrospect, in 1962 the General Assembly could be seen to have indulged in over-simplification by determining that racism was divided into two broad categories notably on grounds of ethnicity and colour on the

one hand or attributable to discrimination on grounds of religion or belief on the other. The International Convention on the Elimination of All Forms of Racial Discrimination had excluded any reference to anti-Semitism in order to counter the cynical and politically inspired proposal purporting to cast zionism into the mould of racial discrimination; it paved the way for the adoption by the General Assembly of resolution 3379 (XXX), an abomination which had not been rescinded until 1991. The damage that that text had done to the cause of human rights would not be easily repaired.

22. The realistic report of the Secretary-General was a step in the right direction. Current forms of racism and racial discrimination in many of the areas covered by the report included xenophobia and acts of terror and violence perpetrated against immigrants, refugees, gypsies and Jews. The terrible term "racial cleansing" had not yet emerged while the report had been compiled. Perhaps one of the most chilling parts of the report was paragraph 31, which referred to the widespread popularity of racist and anti-Semitic computer games.

23. In view of the inability of the international community to bring to a speedy halt the atrocities perpetrated daily in Somalia and in Bosnia and Herzegovina, the Sub-Commission must urge the General Assembly to adopt a declaration proclaiming that anyone committing acts calculated to result in injury or death to persons as a result of the advocacy of racism and racial discrimination be held criminally responsible in accordance with the provisions of articles III to VIII of the Convention on the Prevention and Punishment of the Crime of Genocide, whether they be constitutionally responsible leaders or private individuals.

24. Mr. ABRAM (Observer for the United States of America), speaking on agenda item 5 (a), said that the agenda item dealing with racism, racial discrimination and xenophobia was surely one of the most important issues that would be discussed at the present session. Racial discrimination encompassed more than policies of segregation or other unequal treatment of blacks and whites. For example, "ethnic cleansing" was no less abhorrent than apartheid, being merely a more efficient and deadly mechanism for separating mass groups of people. Was there really any difference betweeen dividing ethnic groups by region and exiling black people to townships?

25. The Sub-Commission and the Commission on Human Rights had spent whole days, even weeks, discussing apartheid and had been effective in helping to bring about its destruction. Yet the two bodies had done little to address other forms of racial discrimination raging through the world, against which they should rail with the same force and vigour as they had done against apartheid. The atrocities in the former Yugoslavia, including the exiling of whole groups of people for no other reason than their ethnic background, the terrible detention camps and the execution of children, were events which he had never expected to see again in Europe. Moreover, Yugoslavia was not the only region where attacks against ethnic groups were taking place. An interim report on Iraq described the Iraqi Government's forced relocations and efforts to "wipe out" the Shiah population in the southern marshes. Muslims were being driven out of Myanmar, and ethnic Nepalese from Bhutan.

26. The twentieth century had been one of the worst in terms of the ferocity and volume of human rights violations but, paradoxically, it had also seen some great achievements. It had witnessed a remarkable advance in human rights at least on one level, because, for the first time in history, there were now universally accepted and recognized standards in the form of the Charter of the United Nations, the Universal Declaration of Human Rights and the two International Covenants on Human Rights, which had built up a body of law that was humane and universal in scope and application. But what was its value if it was not enforced? Why was the world reluctant to take effective action against those who violated what was already international law? The Nuremberg War Crimes Tribunal had been criticized for legislating crimes ex post facto. No such criticism could be made in the present circumstances, since the standards and laws were in existence and all that was required was action against those who engaged in genocide and torture.

27. Those who had violated fundamental human rights, whether in Yugoslavia, Iraq or elsewhere, should be named and held responsible for their acts. Many such crimes fell within the jurisdiction of domestic courts or courts martial. Trial before an international tribunal was another possibility. At the same time, ways could be explored to give meaning to the covenants and conventions already signed through effective methods of implementation. If hatred, racism and xenophobia were ignored, they would not go away but would become a part of life that people felt they must learn to accept. Racism was like a stream of pollution running through a town, picking up refuse and flowing stronger as it went along. However, the dykes of national and popular criticism could hold back the stream of hatred. States throughout the world must play that restraining role by speaking out against racism and ethnic hatred, whenever and wherever it arose.

28. As the world entered the Third Decade to Combat Racism and Racial Discrimination, it was facing new and virulent forms of racism. The problem did not disappear as other world problems were solved. In fact, with the end of the cold war, it seemed to have become exacerbated: long-suppressed nationalism and ethnic pride had been unleashed and had quickly degenerated into xenophobia and discrimination. The mandate of the Sub-Commission required each one of its members to use his or her independent expertise to examine the root causes of the new forms of racism and xenophobia and to produce, if possible, concrete proposals for attacking the menace. His Government had just called an extraordinary session of the Commission on Human Rights to examine some of those issues, particularly the reports of detention camps in the former Yugoslavia. So far 35 States had supported that call. The situation in the world was dire. What was needed was a course of action to attack the scourge of discrimination in the hope that in the future there would be no need to call extraordinary meetings of the Commission to deal with situations that simply ought not to exist in modern society.

29. Mr. AKTAN (Observer for Turkey), speaking on agenda item 5 (a), praised the high intellectual quality of the Secretary-General's report on agenda item 5 (a) (E/CN.4/Sub.2/1992/11), which shed light on an extremely complex problem. Unfortunately, however, the number of non-governmental organizations (NGOs) which had responded to the Secretary-General's invitation had remained very modest. The reason why some NGOs took so much interest in

human rights violations in developing countries while neglecting racism mostly in their own countries called for an independent analysis. Racial preference might be involved, but in any case that attitude represented a breach of the principles of non-selectivity, impartiality and objectivity. It also harmed the credibility of NGOs, which would continue to be judged in the light of the importance which they attached to racism in their activities.

30. The report was only a first step in the right direction. Its database was quite narrow. Few empirical studies on the subject were available, and most of those were provided by official or semi-official organizations. Many other equally prominent authors, thinkers and scientists could be added to the bibliography.

31. In almost all countries where racism existed, racist incidents were under-reported. Therefore, a mechanism should be established, within the United Nations human rights system, to follow, report and process information on such incidents. In many respects, the International Convention on the Elimination of All Forms of Racial Discrimination fell short of what was required in the present conditions. Events had gone well beyond discrimination. Racial violence and harassment perpetrated by racist groups were much more menacing. Most of the time security forces registered those incidents as ordinary violence. The absence of the concepts of racial violence and harassment in the International Convention on the Elimination of All Forms of Racial Discrimination was the reason why his Government was at present not interested in acceding to it. In that field recent developments in the CSCE were much more important.

32. In countries where racism existed, the media, political parties and a large segment of public opinion tended to attribute it mainly to economic difficulties and to the number of immigrants. Both factors surely contributed to the resurgence of racism, but to consider unemployment and immigration as the main culprits was not a correct analysis and did not help to find a solution to the problem. "There is racism because there are other races in the country" was a circular form of logic which presupposed the elimination of the immigrants in order to eliminate racism. However, even in that case, racism would find new targets - if not inside the country, certainly outside it. Moreover, if the economic argument was accepted, the question why there was no racism in some multi-ethnic countries with economic difficulties would not be easy to answer. In fact, there was no fully developed and tested theory of racism, possibly because social scientists were mostly from the West and one of the most difficult things in life was to analyse oneself.

33. A point which was lacking in the report was the psychological analysis of the racist personality. It was essential to make such an analysis if a solution was to be found. It was known that the racist used projection mechanisms towards his victim, loading the victim with his own evil or unwanted parts in an attempt at self-purification. The problem arose when he completed that process and turned the victim into his rejected self. Then the victim became dangerous for him. That was called the "boomerang effect" of racism. He must then eliminate, or expel or kill his scapegoat. At that moment, immigrants were expected kindly to return to their countries.

34. The victim of racism, like that of terrorism, was entirely innocent. Care should therefore be taken not to confuse ethnic conflict with racism. Ethnic groups fighting for land could hate and kill one another, and none of the warring groups could claim to be innocent.

35. A racist was irrational, even pathological, because he chose his victim at random. Consequently, his victim was fully innocent. That situation created an intolerable terror among the target group, whose right to life and security was gravely threatened.

36. Racism was not a transient phenomenon. Its victims needed the cooperation and support of the international community. The Sub-Commission might therefore propose the designation of a thematic rapporteur to the Commission on Human Rights and the Economic and Social Council.

37. The most important question was the possible effects of racism on the other segments of the population which seemingly had nothing to do with it. According to the report, not only the number of active and militant racists, but also those who had racial tendencies, had reached dangerously high levels, penetrating all levels of society and threatening at any moment to become aggressive and violent.

38. Most human rights groups and militants were undoubtedly motivated by the best possible intentions. They took the trouble of travelling long distances, risked their lives for others, and helped the needy. Their personal sacrifices should be appreciated. However, to claim that all of them without exception, in one way or another, had not been affected by the rising racism in their own countries was impossible. Was it only a coincidence that the most sensitive, active and committed public opinions in terms of the human rights problems of other countries happened to be found in the countries with the most virulent racism? It might be quite plausible that some sensitive souls ran away from their own problem, which they thought terribly improper for their societies. They identified extreme rightist and racist groups within their societies with the Governments of the developing countries oppressing ethnic groups. A small group, however, extended its racial prejudices against immigrants to prejudice against the countries from which they had come, which were considered culturally inferior, oppressive and disrespectful of human rights. That phenomena might explain why such human rights groups habitually exaggerated human rights violations in countries with whose peoples they had a racial problem, why they were interested only in ethnic rights, neglecting the broad democratic rights of the majorities in the developing world, and why their violent and aggressive language, approach and work methods, basically prompted by the racial problems of their own countries, created reactions rather than cooperation in the countries where human rights violations took place.

39. It was therefore of the utmost importance that racism should be studied in depth, that its effects on various groups and segments of the population be ascertained, and that Western NGOs should draw the necessary conclusions for their future activities.

40. Mr. FERNÁNDEZ PALACIO (Observer for Cuba) noted that after two Decades to Combat Racism and Racial Discrimination, the progress made had been so unsatisfactory that it had been found necessary to proclaim a Third Decade. In fact, the scourge of racism and racial discrimination had acquired considerable proportions in many parts of the world, where the colour of a person's skin, his national origin or immigrant status continued to be the basic cause of policies of exclusion and massive violations of human rights.

41. Apartheid, the most comprehensive incarnation of racism, was based on the systematic exploitation of the black majority by a cruel and brutal minority unwilling to change or to renounce its privileges. Nevertheless, it was gratifying to note that in recent months some important racist laws had been repealed, and his Government was observing with optimism the negotiations leading to the preparation of a new constitution and the adoption of a transitional form of government representing the whole South African people. That process was, however, threatened by the escalation of violence. It was disturbing to note that, despite the slowness of the measures being taken and the uncertain and far from irreversible course of the process, some States were unilaterally adopting clearly premature and unjustified decisions in lifting the sanctions imposed by the United Nations, thereby encouraging the sectors most hostile to change. It could not be said that apartheid had disappeared from South Africa until it was certain that events such as the Boipatong massacre of 17 June 1992 could not recur, and until the black population of South Africa had all its human rights and fundamental freedoms guaranteed. Mr. Khalifa's latest report (E/CN.4/Sub.2/1992/12 and Add.1) was extremely useful, and his mandate should be continued.

42. Racism was re-emerging in various countries in Europe, where Fascist-type elements were entering parliaments, blaming immigration for their economic and social evils. In the United States of America, the indigenous, black and Hispanic minorities were being increasingly discriminated against. They constituted the bulk of the prison population and the nucleus of the homeless; they had a lower life expectancy and were condemned to live in ghettos. The true face of a society based upon hatred and inequality had come into the open only a few weeks earlier, after the acquittal of four policemen who had savagely beaten Rodney King, a black man. In the United States of America, violence of all kinds was a permanent state of affairs having deep historical roots in a racist society in which the poor, whether they were black, white or immigrants of any other ethnic group, were exploited and discriminated against. The United States of America, the richest capitalist country, had its own third world inside it, where it used the same cruelty and savagery that emanated from a real policy of apartheid. That happened in a country whose Government claimed to dictate what kind of society and what type of government Cubans should have, at the same time harassing Cuba in every way, threatening it militarily and applying an economic blockade against it.

43. The Secretary-General's report (E.CN.4/Sub.2/1992/11) should help to mobilize the international community to combat racism. In view of the circumstances, his delegation urged the Sub-Commission to appoint a special rapporteur to update the study on racial discrimination prepared by Mr. Hernán Santa Cruz in 1976, taking into account new trends in racism and racial discrimination and the xenophobia reigning in many parts of the world.

44. Mr. SENE (Observer for Senegal) noted that the protection of minorities had always been a central part of the Sub-Commission's activities. In the case of South Africa, however, it was the rights of the majority that had to be protected. In a democracy, it was essential that the choice of the majority should be reconciled with respect for the rights of minorities. Consequently, when the black majority came to power in South Africa, it must respect the rules of democracy and preserve the political balance and promote the economic, social and cultural development of all South Africans, regardless of race, creed or sex. The present problem was to endow the black majority with all its rights and fundamental freedoms, and the negotiations to draw up a new constitution for a new, free, democratic, multiracial and fraternal South Africa should be seen in that context. South Africa could not escape from the winds of democracy that had been blowing across the planet since the collapse of the communist system. Mr. De Klerk, a statesman of vision, had proposed the dismantling of apartheid, while Mr. Mandela, the hero of the anti-apartheid struggle, had lucidly incarnated the aspirations of the anti-apartheid movement and had engaged in a dialogue with the De Klerk Government.

45. Apartheid had been proclaimed dead, but a number of legal measures needed to be taken in order to introduce a non-racist and democratic society. The 1979 electoral law depriving blacks of the vote had to be repealed, as well as the legislation relating to Bantustans and discrimination in education, health, social services and housing. The mounting violence must also be stopped. The international community should do everything it could to support CODESA. Unfortunately, since the referendum of 17 March 1992, in which 68 per cent of the white population had voted in favour of continuing the negotiations, Mr. De Klerk's party had apparently not wished to take any step forward and the white minority still seemed to want to retain its undivided hold on political, military and economic power. Meanwhile the black majority wanted a transitional government and a constituent assembly elected by universal suffrage. Following the failure of CODESA, the anti-apartheid alliance had decided to organize disciplined and peaceful mass demonstrations.

46. At its Summit held at Dakar in July 1992, the Organization of African Unity (OAU) had denounced the continuing violence in South Africa, for which the South African Government was responsible, and had requested a meeting of the Security Council to discuss what should be done to stop it. OAU had also urged the parties to resume the CODESA negotiations. His delegation considered that the South African Government should put an end to the escalating violence, release political prisoners, repeal the legislation on homelands and establish relations of trust and respect with neighbouring countries. In any case, the recommendations made by Mr. Cyrus Vance were to be welcomed, as was the Secretary-General's decision to send 30 observers. The Goldstone Commission would conduct a complete inquiry into the activities of the police and the army, accused by ANC of being behind the violence in the black townships. All in all, however, despite the resistance of white extremists who dreamt of some kind of partition, there were grounds for optimism about South Africa, whose white population was considered to be fully African throughout the African continent.

47. The discovery of America by Columbus in 1492 had been followed by a period of almost 400 years of slavery and genocide. Apartheid was that same slave ideology expressed in a modern form. Fortunately, there were signs that the process of change was now firmly established in southern Africa. The independence of Namibia and the heroic struggles of the national liberation movements were two such signs. More recently, Senegal, which as long ago as 1987 had hosted a meeting between white liberals and anti-apartheid movements, had organized the first pan-African athletics event involving South African participants, as well as negotiations between the International Olympic Committee and South African sports associations. Those achievements were encouraging signs of the white minority's dawning realization that it was genuinely in their interests to seek a solution through negotiation and dialogue.

48. It was his delegation's earnest hope that negotiations would shortly be resumed, and that a solution would be found before the end of 1992; for, even after it had been finally swept away, apartheid would leave wounds that would take many years to heal. His delegation was greatly concerned at the signs of a resurgence of racism, xenophobia, intolerance, prejudice and discrimination against minorities throughout the world. It was to be hoped that the Earth Summit, fittingly held in Rio de Janeiro 500 years after the discovery of the New World by Columbus, would provide an additional impetus towards creating a new order to respond to the challenges of respect for human rights, democracy, peace and sustainable development on the eve of the third millennium.

49. Mrs. KSENTINI, speaking on agenda item 5 (a), said that, when reading the report of the Secretary-General (E/CN.4/Sub.2/1992/11), she had been struck by the large number of serious incidents attributable to racism, racial discrimination and xenophobia enumerated therein. To judge from paragraphs 44 to 63 of the report, it would seem that Europe was the continent most affected. The Sub-Commission must respond to the seriousness of the situation by according it particular attention.

50. She was also struck by the discrepancy between the seriousness of the situation and the paradoxically low level of response to that situation, particularly on the part of non-governmental organizations, as reflected in paragraph 6 of the report. To the best of her knowledge, only one non-governmental organization - the International League for the Rights and Liberation of Peoples - had submitted a written communication. While non-governmental organizations in the South might perhaps plead scarcity of resources, they should still be more active in a field that was of direct concern to nationals of third-world countries. Non-governmental organizations in the North, on the other hand, were geographically well placed to observe those phenomena on the ground, and she thus hoped for a more positive contribution from them in the future.

51. In view of the very extensive measures enumerated in Chapter III of the report, she wondered how racist incidents could still be possible. The fact that they persisted revealed the limitations of government action, however commendable, and of legislative action, however extensive. Chapter III also raised the question of the ultimate purpose of democratic institutions: was it possible, or even permissible, to use them as a means of achieving ends

that were non-democratic, or even contravened human rights? When human rights violations were reported in the so-called "developed" world, it was often claimed that they were merely aberrations that could be corrected by the democratic system and its institutions. Yet the report posed the problem of the ability, or inability, of the Western democracies and their institutions to come up with an appropriate response to the challenge of contemporary manifestations of racism - especially when that system was itself increasingly used to promote and propagate racism.

52. Thus, for example, the report showed that the propagation of racism and intolerance was often attributable to political parties of the extreme right. Could it be that a multi-party system sometimes opened up the way for racism? If so, how could it be stemmed? Similarly, the right to freedom of association resulted in the development and proliferation of Fascist cells. As for the right to information and freedom of expression, the report pointed out that the media were often to blame for propagating racist attitudes, by perpetuating stereotyped clichés regarding immigrants and associating them with crime, drugs, AIDS, third-world poverty, fundamentalism, terrorism and the like. A file containing articles from the press, submitted by the Turkish Democracy Foundation, contained a wealth of instructive information in that regard.

53. One final example of the use of democratic institutions to further non-democratic ends was the frequency with which the independence of the judiciary was invoked in order to justify the inability of Governments and political authorities to compensate victims of racism. In France, sentences for such offences had been so lenient as to provoke anger and indignation amongst the immigrant population. The year's major legal event in the United States of America had undoubtedly been the acquittal of four white policemen who had beaten up an Afro-American, an acquittal that had sparked off the latest riots in Los Angeles. In Belgium, 317 out of 343 complaints submitted during the period 1985-1986 in pursuance of the Anti-Race Law of 1981 had been ruled inadmissible. In the light of such statistics, it was scarcely surprising that few people took the trouble to bring cases before the courts. Lastly, in Germany, the police courts were notoriously reluctant to prosecute acts of racist violence. All those examples clearly showed that anti-racist laws were far from constituting a bulwark against racism.

54. The report of the Secretary-General put forward some ideas regarding the ideological roots of contemporary manifestations of racism, intolerance and xenophobia. It also drew attention to parallels between those phenomena, the resurgence of nationalism in Europe, and the consolidation of a European identity. The report also made it clear, however, that such neo-nationalist sentiment was targeted not only against illegal immigrants, but also against long-established immigrant communities. That fact should be borne in mind when giving consideration to the suggestion made by Mr. Bossuyt the previous day that the best way of combating racism would be to halt illegal immigration. In her view, it was dangerous to draw a parallel between illegal immigration and racism. Illegal immigrants should not in any case be used as scapegoats. Regardless of their illegal situation, they still had the right to protection against acts of racism.

55. Paragraph 65 of the report referred to measures adopted by the European Community to suppress racism by curbing immigration and harmonizing asylum policies so as to control the entry of asylum seekers more closely. That was a short-sighted approach, which failed to tackle the root causes of racism and of the population exodus. Furthermore, unduly restrictive policies on the granting of asylum flouted the fundamental principles of humanitarian and refugee law. The United Nations High Commissioner for Refugees had repeatedly denounced such restrictive policies, which violated the elementary principle of non-refoulement of asylum seekers.

56. The observations contained in the report of the Secretary-General, amply corroborated by other sources, called for positive and determined action by the Sub-Commission. Such action might include the appointment by the Commission on Human Rights of a special rapporteur on the question of contemporary forms of racism, a proposal she had also put to the Sub-Commission the previous year.

57. Mr. POTAPOV (World Federation of Trade Unions), speaking on agenda item 5 (b), said that his organization's recent hopes that the process of change under way in South Africa would gather momentum had not been fulfilled. The failure of the CODESA talks was largely attributable to the Government's reluctance to hand over power to the majority, and to its proposal to give the right of veto to a minority in an elected constituent assembly. The premature lifting of sanctions and the absence of sustained international pressure had done much to contribute to slowing the transition to a non-racial democracy in South Africa. Needless to say, those who had been least enthusiastic about implementing the sanctions called for by the majority of the South African people had been the first to call for those sanctions to be lifted.

58. Although some apartheid laws had been repealed, other racist laws remained in force. The current Constitution excluded blacks from social life, and all aspects of economic, social and cultural life bore the scars of decades of segregation. It was evident that apartheid was far from having been abolished.

59. His organization would thus continue to campaign vigorously against the South African regime and to call upon the international community to exert the strongest pressures, including the sanctions provided for in General Assembly resolution 46/79 of 13 December 1991, with a view to eliminating apartheid at the earliest opportunity. Meanwhile, however, the system remained in place, with its repressive apparatus, its prejudices and brutal violence. In the townships, poverty was now compounded by fear. More than 40 persons had died in the two-day general strike, and 7,000 had been killed in 2 years of so-called "political violence". Furthermore, many acts of violence and intimidation had been targeted against trade unionists. His organization vigorously condemned the South African Government for its failure to arrest those responsible and bring them to trial. There had also been a number of mass arrests of trade unionists during strikes, which were always brutally suppressed. It seemed that for the police and some paramilitary groups, the mere exercise of the right to strike was a crime punishable by the death penalty.

60. The Sub-Commission should take stock of recent achievements, but above all of what had still to be done before it would be possible to speak of a genuine and definitive dismantling of the racist system in South Africa. It would be tragic if the political and constitutional dialogue were to become bogged down through lack of genuine political will, or if it were to fail as a result of last-ditch manoeuvres by the Pretoria Government. The Sub-Commission should give thought to new United Nations initiatives aimed at encouraging and accelerating the inevitable process of liberation of the South African people. The international community had a legitimate right to intervene so as to help to fulfil the will of the South African people, and Governments must not be content to play the role of observers or arbitrators, for that might encourage the racist forces to erect obstacles and play for time. In particular, the Security Council should ensure that the process was brought to a successful conclusion, and should envisage intervention if, for example, the minority regime sought to hamper it or deflect it from its purpose.

61. Mr. van WALT (Pax Christi International), speaking on agenda item 5 (a), said that the problem of racism and racial discrimination was currently so widespread that effective measures to combat it had become difficult to develop and even more difficult to apply. Moreover, many Governments and social groups were willing to accuse others of racism and discrimination but were unprepared to admit and combat their own racism and discrimination at home.

62. South Africa was undergoing change but racism and discrimination were still far from removed, even in the law; in some ways they were regressing. His organization was concerned that some Governments were lifting the pressure from South Africa too soon.

63. In Europe, racism and xenophobia were on the rise as could be seen in the growth of political parties with racist platforms and the increase in the numbers of serious racist incidents in many European countries, both in western and eastern Europe.

64. In the United States of America, the effects of continued racism against many minority groups, particularly Afro-Americans, had become painfully evident several months earlier in Los Angeles and many other cities. Neither the Administration nor the Democratic Presidential candidate had shown any inclination to address the underlying social and political issues, in particular racism, for fear of alienating large sections of the white electorate.

65. The Chinese authorities, though condemning racism and discrimination in other parts of the world, particularly in South Africa, were carrying out racist policies in Tibet, East Turkestan (Xinjang) and Inner Mongolia, against the Tibetans, Uygurs and Mongolians. Tibetans, for example, were subjected to discrimination in education, employment, health care, housing and most aspects of social and political life. Tibet was an example of the kind of racism and discrimination which arose in colonialist or neo-colonianist empires; the problem could not be solved until the underlying cause was removed.

66. Other examples included Indonesian discrimination against the people of East Timor, West Papua, the South Moluccas or Acheh; Iraqi discrimination against Kurds, Turkomen and Assyrians; Saudi Arabian discrimination against non-Muslims; and the discrimination against Palestinians not only in Israel and the occupied territories but also in Kuwait.

67. A form of racist and racial discrimination to which sufficient attention had not been addressed was that perpetrated against indigenous peoples, who, throughout the world, were victims of various degrees of racism and discrimination as individuals and as distinct peoples. The suffering of indigenous peoples at the hands of conquerors and their descendants was well known. The landing of Columbus in the Americas, which had set in motion one of the most extensive genocides in history, was being celebrated with great pride by many countries. The aboriginal Australians, the Igorot people of the Cordillera in the Philippines, the Jummas of the Chittagong Hill Tracts in Bangladesh, the Ogoni people in Nigeria and the Batwa in Rwanda suffered similar discrimination. Institutional racism and discrimination against indigenous peoples was so deep that most Governments refused to recognize them as peoples and thus attempted to deny them the rights and dignity they accorded to others.

68. Pax Christi International proposed that the Sub-Commission should address the forms of racism and discrimination which it had described, analysing in particular their root causes so that the United Nations would be in a better position to combat racism and all its manifestations during the Third Decade to Combat Racism and Racial Discrimination.

69. Mrs. Ksentini took the Chair.

70. Mr. HATANO said that he had always strongly supported Mr. Khalifa's work which must be continued with due account being taken of recent trends and developments in South Africa. It was his hope that Mr. Khalifa could be persuaded not to resign.

71. Mr. KHALIFA, Special Rapporteur, replying to comments made during the discussion, thanked Mrs. Attah for her support of his entire thesis and for the great concern she had expressed regarding the instigated violence in South Africa. Mr. Despouy had asked what the impact of sanctions had been on the South African economy. In fact, that aspect had been covered in previous reports, particularly that submitted in 1991. He strongly agreed with Mr. Despouy's proposal, which had been supported by Mr. Heller, that new guidelines should be prepared. The Sub-Commission must not cease its efforts but must seek new ways and means. In that connection Mr. Guissé had pointed to several ways to keep up the pressure.

72. Mr. Joinet, supported by Mr. Bossuyt, Mr. Eide and Mr. Boutkevitch, favoured a redefinition of the mandate and dropping the list. Mr. Heller had been more optimistic than he was himself that a meaningful start had been made towards peace and democracy in South Africa. The situation must continue to be monitored carefully as otherwise such progress as had been made would perish. Mr. Bossuyt had emphasized that trade sanctions had not worked very well but Mr. Eide had acknowledged the effectiveness of the report in the fight against apartheid.

73. He welcomed the balanced comments of Ms. Chavez who had recognized the highly complex nature of the situation. He wished to assure Mr. Chernichenko that the written and oral submissions were complementary; the former was a work of the mind and prepared the ground for the oral presentation which reflected his personal feelings. In response to Ms. Ferriol, it was essential that the Sub-Commission should keep monitoring the situation as the period of transition would be the most delicate of all.

74. He thanked Mr. Daode Zhan for his support and would take the liberty of interpreting Mrs. Warzazi's kind words as unconditional support. He also wished to express his appreciation of the comments of Mrs. Ksentini, Mr. Saboia and Mr. Hatano and reminded Mr. Sachar that India's had been the first voice to be raised against apartheid.

75. He also thanked the representatives of the PAC and ANC although he appreciated that the latter would not be happy with the discontinuation of the list on the grounds that it might give a false signal to the South African Government. The Sub-Commission must be rational and not emotional; continuation of the list would be an exercise in futility as it had lost its raison d'être as a list of shame. Almost everybody, including black Africa, was doing business with South Africa. He also thanked the representatives of the ILO, non-governmental organizations and the observers for Egypt, Ethiopia, the Syrian Arab Republic, Cuba and Senegal for their contributions.

76. He wished to stress that he continued to give his strong support to the maintenance and tightening of sanctions. He favoured the ending of the mandate and the drafting of a new one with a new special rapporteur. He would continue to be available, as a member of the Sub-Commission, to help with future work on the issue. There were well-qualified African members any one of whom could take on the role of special rapporteur.

77. In his view, the new mandate could be articulated along the following lines. It should be for one year and should comprise the assessment and evaluation of recent and current developments in the peace process as well as the negotiations for the adoption of a new constitution based on one-man one-vote and the creation of a non-racial democratic South Africa. The terms of reference should also call for the formulation of recommendations for future action by the Sub-Commission. The services of an economist would no longer be required as that aspect of the situation had become less prominent.

78. The fact remained that there was still a long way to go, fraught with tricks, delaying tactics, interruptions; a take-off had not yet been seen. No significant steps forward had been made and the Sub-Commission must stay vigilant.

79. Mr. Alfonso Martínez resumed the Chair.

80. Mr. JOINET, speaking on agenda item 5 (a), expressed regret that no reference had been made in the report of the Secretary-General (E/CN.4/Sub.2/1992/11) to the study on freedom of opinion and expression (E/CN.4/Sub.2/1992/9) which he and Mr. Türk had submitted at the current session. One chapter had been devoted entirely to the thorny issue of

permissible restrictions in a democratic system with a view to combating racism. In accordance with restrictions on that right which were currently permissible it seemed that it was not possible to restrict apartheid. The question at issue had been whether a right-wing party advocating racist ideas could be banned. Such a situation might be envisaged under a state of emergency. It was very difficult to determine how far one could go in combating racism by placing restrictions on freedom of expression and association.

81. The second point he wished to make was that the French judicial system had often behaved like others in that it had tended to think that racism was an opinion and not a crime. It was hard to change people's thinking in that regard. French law had, however, been reinforced recently and now penalized racial statements as crimes. Nevertheless, the law and judges were not sufficient in themselves to get rid of racism. The problem was deeper and involved changing people's thinking.

82. Mr. MILOSEVIC (Observer for Yugoslavia) said that his Government had replied repeatedly to allegations of violations of the rights and freedoms of Albanians in Yugoslavia similar to those propounded by the representative of the International Federation of Human Rights. He categorically rejected as dishonest and untruthful all allegations that segregation, apartheid and ethnic cleansing occurred in Yugoslavia. The lies of the Albanian nationalist secessionists regarding violations of fundamental freedoms and human rights in Kosovo were designed to gain the support of international public opinion for future claims. Their true objective was to separate Kosovo from Yugoslavia. Aware of the fact that the integrity of the borders of Yugoslavia was guaranteed by international agreements, the Albanians were pursuing their political aims by making vague and false allegations of police brutality, violations of the freedoms and rights contained in the Constitution as well as of the right to work and to education in the Albanian language.

83. In Yugoslavia, Albanians enjoyed the same human rights as all other Yugoslav citizens. In recent years a number of Albanians had abused the right to work by leaving their jobs and thus threatening the solvency of a number of companies. The Albanian nationalist secessionists had used education to manipulate students and schoolchildren. In the view of the authorities of the Republic, it was impossible to provide regular education under current circumstances. He wished nevertheless to assure the Sub-Commission that it was possible for Albanians to receive primary, secondary and university education in the Albanian language.

84. In his statement, the representative of the International Federation of Human Rights had alleged that Albanians had been deprived of their right to freedom of information. The truth was that the Albanian nationalists had endeavoured to exploit the mass media for the purpose of propagating intolerance and encouraging resistance to the legal authorities and existing laws. The Albanians had alleged that they were not permitted to participate in public life but it was clear that they were boycotting the institutions of the Republic in order to ensure that no dialogue could take place.

85. The Albanians in Kosovo were using the alleged violations of human rights and fundamental freedoms as a smoke-screen to hide the true situation of the Serbs and Montenegrins in their territory. Montenegrins had no legal protection; they had been subjected to pressure, provocation and mistreatment by the Albanian nationalists and were emigrating in massive numbers from Kosovo. Over the past 50 years approximately 400,000 Serbs and Montenegrins had emigrated from Kosovo to other parts of Yugoslovia.

86. Mr. AL-DOURI (Observer for Iraq) said that the people of Iraq and the silent majority of the world were convinced that, if the United States of America had not interfered in Iraq and in the internal affairs of a large number of countries, the situation in many countries of the world would currently be very different. In that connection, he wished to assure the Sub-Commission that there was no real Shiah problem in Iraq. The issue had only appeared after the Gulf War which had been unleashed by the United States and its allies. If the United States had adhered to its stated policy of ending interference in the internal affairs of other countries for the purpose of protecting the people and allowing them to live in dignity with the protection of human rights, nothing would have happened in the southern marshes of Iraq. People had fled to that area which was inhabited by criminals and Iranian prisoners who enjoyed the support of Iran and other neighbouring countries, as the United States was well aware. With the collaboration of those neighbouring countries, the people in the southern marshes were perpetrating crimes against innocent people in Iraq, including cutting the road linking Basra with Baghdad. He considered that no country in the world which had any self-respect would permit such crimes to be perpetrated against innocent victims. Such criminal activities must be ended.

87. The United States Ambassador had spoken of justice but Iraq believed that the United States Government had perpetrated direct and individual actions in different parts of the world which could be categorized as international crimes and also needed to be judged.

The meeting rose at 6.05 p.m.